

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CORY T. ALLEN,

Plaintiff,

vs.

THE COUNTY OF DOUGLAS, is to be  
sued in Official Capacity; PAUL  
LATSCHER, O.P.D. Officer, is to be  
sued Individually and in his Official  
Capacity; JERRY SWANSON, O.P.D.  
Officer, is to be sued Individually and in  
his Official Capacity; THE CITY OF  
OMAHA, a Municipality, is to be sued  
in its Official Capacity; and DONALD  
KLEINE, Douglas County District  
Attorney, is to be sued Individually and  
in his Official Capacity;

Defendants.

**8:16CV221**

**MEMORANDUM  
AND ORDER**

This matter is before the court on Plaintiff's amended motion for leave to proceed in forma pauperis on appeal. ([Filing No. 27.](#)) Upon Plaintiff's initial motion, the court determined that Plaintiff must pay an initial partial filing fee of \$247.61 based upon average monthly deposits of \$1,238.06 for the six months preceding the filing of his notice of appeal. ([Filing No. 23.](#)) Plaintiff states, in his amended motion, that he is unemployed and without any funds to pay the filing fee. ([Filing No. 27.](#)) He asks that the court waive the \$505 filing fee. (*Id.*)

The court cannot grant Plaintiff the relief that he requests. The Prison Litigation Reform Act ("PLRA") requires prisoner plaintiffs to pay the full amount of the court's \$505.00 appellate filing fee by making monthly payments to the court, even if the prisoner is proceeding in forma pauperis. [28 U.S.C. § 1915\(b\).](#)

The PLRA “makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951, 952 (D. Neb. 2001) (citing *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997)). The appellate filing fee is assessed when the district court receives the prisoner’s notice of appeal. *Henderson v. Norris*, 129 F.3d 481, 485 (8th Cir. 1997). Accordingly,

IT IS THEREFORE ORDERED that: Plaintiff’s amended motion for leave to proceed in forma pauperis ([Filing No. 27](#)) is denied. The clerk’s office is directed to send a copy of this order to the Eighth Circuit.

Dated this 2nd day of May, 2017.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge